

## Attachments to Title 1 of State Plan

### Attachment 4.2 (c) – Input of State Rehabilitation Council

The State Rehabilitation Council (SRC) is established in Section 105 of the Rehabilitation Act of 1973, as amended (Act), and 34 CFR §361.16.17 of its implementing regulations. The SRC gives advice to and works in partnership with the Division of Rehabilitation Services (referred to as “the Division” throughout this report). The State Rehabilitation Council met on April 2, 2009 for the purpose of reviewing, providing input and recommendations to the State Plan Annual Update Title 1, Part B and Title VI, Part B supplement. Input from the Council is inserted throughout the Plan including the following specific recommendations and the Division’s response.

1. The SRC expressed concerns regarding the Division's decision to place a needs test on college tuition and requiring client participation in the cost of covered services. The SRC sees its role to zealously protect service to clients in TN and this change will have a negative impact on VR clients. SRC sought input from CAP on this important issue. The SRC fears that ultimately this policy change will result in many students with disabilities not applying for VR services and for those who are VR clients will negatively impact each client’s informed choice when determining their employment outcomes

We commend the Division for adhering to the promulgation process for this significant change to their program and we were pleased that the SRCs recommendation and those of other agencies and clients resulted in an amendment for clients with current IPEs to be “grandfathered in” to complete their education without the possibility of their tuition assistance being removed.

The SRC is concerned by the lack of statistical data or evidence to support the reduction in services using a needs test. The Division has not provided concrete data, either programmatic or financial, to support that this measure will in fact garner the financial surplus the Division is seeking through this additional rule. The SRC commends the Division for raising the maximum amount a person can earn before being required to participate in the cost of VR services other than tuition.

RESPONSE: In order to be a good financial steward and in light of the Division operating under an Order of Selection, the Division believes that implementation of a needs test on tuition and training services is appropriate. This conclusion was reached after consultation with RSA and research showing that Tennessee was the only VR program operating under an Order of Selection that did not have a needs test on tuition and training services.

The Division solicited input and feedback on the change throughout our consideration process and especially during the rules promulgation public hearings. This consultative process did result in “grandfathering” language being added into the rules proposal.

The Division has conducted extensive analysis on the potential impact of the implementation of a needs test. While final numbers cannot be known until the process is actually implemented, the following numbers provide some indication of the impact that can be expected:

- Approximately 30% of our total tuition cases currently receive SSI or SSDI, which means that a needs test cannot be applied to them;
- A cross section of tuition cases that did not receive SSI or SSDI showed that around 40% of those cases had an “expected family contribution” of \$0, which would mean that they did not have to make any contribution to their tuition costs; and
- The Division estimates a recurring savings of \$600,000 per year in non-federal funds.

2. The SRC continues to express concern about the Division's policy that requires college students being sponsored by the Division to take a minimum of 15 hours. Students can qualify for all other financial aid including the lottery scholarship by taking only 12 academic hours. If the Division is going to require students to participate more in the costs of their education, the Division's policy should be more in line with other funding sources.

RESPONSE: The Division has confidence in the ability of our clients to perform at the 15 hour level and feels that it would be condescending to make the assumption that people with disabilities cannot carry the same course load required of other students to complete their degree in four years. VR policy is clear that an exception should be made for approved reasons, which include severity of the disability; temporary illness or accident; need for time to adjust to the requirements of being in college; or not enough class hours available for the term. The exception is not at the discretion of the counselor, but must be granted for the above reasons. The “paperwork” required can be as simple as a note from the campus coordinator of services to students with disabilities.

Any communication to the SRC or Client Assistance Program from the Division’s clients regarding the 15 credit hours per semester should immediately be referred to the Division for action, as we and RSA have requested. Over the past several years, the Division’s central office staff responsible for resolving client issues has received no reports of Division staff negligence as it relates to this policy. The Division is committed to taking immediate action to remediate any failure to grant properly exceptions.

The Division is charged with stewardship of available funds to provide the best services possible to as many of those clients possible who have the most significant disabilities. The Division feels that the college attendance policy as currently administered contributes to our stewardship responsibilities.

3. The SRC continues to express concern about the large number of clients on the waiting list (5577). The SRC has not been given detailed information regarding the outcomes of the waiting list release including how many of the 2,001 clients were still in need of services, what the cost of these services were, how many required one time expenditures, how many had ongoing needs. This type of detailed information would allow the SRC to have informed input on other issues when there are opportunities for releases from the waiting list, such as the Stimulus Money.

RESPONSE: The Division is committed to sharing information with the SRC, both at the regular quarterly meetings and in between through regular meetings and phone conferences with the SRC Chair and executive committee.

As of April 30, 2009, there were 5,736 cases on the waiting list. This total consists of 2,837 priority category 2 cases; 2,626 priority category 3 cases; and 273 priority category 4 cases. To date, there have been three releases from the waiting list totaling 4,579 cases. Through April 30, 2009, the results of these releases are as follows:

- 39 cases (.85%) have been closed with successful outcomes;
- 513 cases (11.2%) are actively receiving services under an Individualized Plan for Employment (IPE);
- 135 cases (2.95%) have developed an IPE but not yet started services;
- 451 cases (9.9%) are developing an IPE;
- 37 cases (.81%) were closed unsuccessfully; and
- 3,404 cases (74.3%) were no longer in need of services.

4. The SRC was disappointed that the Division did not consult with the SRC prior to making decisions on how to spend stimulus money. The SRC was told of the Division's plans, which included spending up to \$6,000,000.00 on a new computer system, and was never asked for input. The SRC exerted itself and provided unsolicited recommendations on how it felt funds should be expended. The SRC was concerned that the top priority for stimulus money was not serving clients on the waiting list. With the high number of individuals still on the waiting list, the SRC feels that funds should first be devoted to serving those clients. The SRC recognizes the importance of a new computer system, but investing \$6,000,000.00 on computers when clients are not being served seems misguided. The SRC sees its role as a supporter of the Division and believes the relationship is a partnership. We commend the Division on being available for additional meetings with the SRC Executive Committee at the request of the SRC Chair. We would like to see this relationship as reciprocal and want to have meaningful input in matters that substantially impact client services in TN and not merely be "informed" of decisions at a point where input becomes moot to the outcome.

RESPONSE: The Division presented information at the April 9, 2009 SRC meeting it had received from RSA regarding the American Recovery and Reinvestment Act (ARRA) and the Division's ideas for use of the ARRA funds. Feedback was requested from the SRC at that time, because the Division had made no expenditure of the ARRA funds. Because the ARRA funds are non-recurring, the types of expenditures that can be considered are limited. The first priority of using the non-recurring ARRA funds is to "grandfather" current clients under the upcoming needs test on tuition. This initiative came directly from the urging of the SRC and from public comments at the rulemaking hearings. As discussed with the SRC, the Division is considering upgrading its 22-year-old case management system to increase the capacity and flexibility to serve clients. This type of expenditure meets the goals of ARRA and its non-recurring nature also meets the needs of the Division. The Division is also considering releasing clients from the waiting list, as both of these expenditures were presented by RSA as recommended uses of ARRA funds. Electronic case management will allow the Division to serve more clients without adding staff, and it will make it easier for staff to access and serve cases from different locations without having to transfer a single, hard-copy file. The Division learned from its earlier waiting list releases that clients on the waiting list are not spread evenly across the state, so this kind of flexibility is critical as cases with more recent application dates are released. The \$6,000,000 figure for the case management system was presented as a top-end number to avoid any conflicts

with the state procurement process. The Division will continue to discuss spending priorities with the SRC as it gets more information about the costs of these proposed uses of ARRA funds.

5. The SRC was told that the Division rolled forward \$6,000,000 - \$8,000,000 in federal dollars last fiscal year. The SRC was told that this money had been obligated to be spent in the next fiscal year when in reality it could have been used in the prior fiscal year to serve clients. The SRC concedes that understanding the budgeting process can be a challenge but it believes that it is in the best interest of Tennessee citizens with disabilities for the Division to spend all available federal dollars in the year that they are allotted. The SRC would welcome further explanation and training on the federal budgeting process and the details of how and why funds are carried forward and specifically for what purposes they are being spent.

RESPONSE: The carrying forward of federal funds is allowed by 34 CFR § 361.64. Specifically, federal funds not obligated by the beginning of the succeeding fiscal year remain available for obligation by the Division during the succeeding fiscal year. These federal funds are obligated and spent before any newly appropriated federal funds are spent following a FIFO accounting model. As this cycle continues, the Division uses all available federal money and does not revert it back to the federal government.

6. The SRC commends the Division for the steps that have been taken to ensure that VR Counselors have the qualifications necessary. The SRC requests a list of the VR Counselors or the number of VR Counselors who have received Masters level certification and what percentage of the total number of Counselors that represents. We request that this information be provided at each quarterly meeting.

RESPONSE: The number of counselors who possess a Master of Rehabilitation Counseling degree (or closely related master) and what percentage of total counselors this represents can be provided to the SRC at each of its quarterly meetings. The annual data is presented in this State Plan in Attachment 4.10.

7. The SRC commends the Division for its ongoing public relations efforts and access to individuals with disabilities to the public hearing process. It has been reported to the SRC that there was confusion at public hearings regarding the purpose of the public comment sessions. VR clients reported that they were told their questions would be answered at the public comment hearings. The SRC recommends that the purpose of future hearings be clearly stated and that information be given in the press releases as to the process to use if you have specific questions that need to be answered. We believe this will assist clients in understanding how to have input into the process.

RESPONSE: The Division always provides information on the purpose and the intent of the draft state plan public hearings to the public in general and several hundred entities in the state that work with individuals with disabilities. This information is published prior to the meetings to include where and to whom input should be provided. Additional postings informing of the various avenues to provide input and deadlines for providing input are also available and are posted in all Division offices, the internet and other public places. A copy of the draft state plan

is posted on the Internet several weeks prior to the public hearings and is also provided at each meeting in alternative formats. In addition, at the beginning of each meeting, the Division informs the attendees the purpose of the draft state plan hearing is for input on the issues covered in the draft state plan. The audience is also informed that specific questions regarding individual client issues or issues not covered in the state plan will be entertained after the meeting with the most appropriate Division staff available to discuss those issue(s).

8. The SRC commends the Division on the improvement to the website and encourages expansion to include legislative information relative to persons with disabilities.

9. The SRC continues to recommend the Division aggressively pursue partnerships with other state and local organizations, profit and non-profit, to improve opportunities for consumers in securing and maintaining employment.

RESPONSE: The Division agrees with the State Rehabilitation Council regarding the importance of partnering with other state and local organizations, profit and non-profit, to improve opportunities for clients in securing and maintaining employment. The Division has ongoing interagency cooperation, collaboration, and coordination with several entities to include: Statewide Workforce Investment System, the Department of Children Services in serving youth with significant disabilities; the Department of Health in providing services to individuals with Traumatic Brain Injuries (TBI) and alcohol and drug abuse disabilities; post-secondary school systems in the provision of services to individuals with physical and mental disabilities; the Department of Corrections and local police and sheriff's offices in the provision of services to individuals with significant disabilities being released from correctional facilities; the Department of Human Services, Division of Family Assistance regarding Families First participants with known or suspected disabilities; the Department of Mental Health and Developmental Disabilities and the Department of Finance and Administration, Division of Mental Retardation Services in the provision of services to individuals with mental health and intellectual disabilities.

10. The SRC was disheartened by the news that the Division, as the result of state budget reductions, has lost \$1.2 Million in match money which was being provided by other state agencies. According to the Division, this will result in a total reduction in funds of over \$6,000,000.00 when the loss of federal dollars is factored in. The Division has given no plan on how it will cope with such a significant reduction in funding. This is going to require careful planning to minimize the impact to individuals with disabilities. The SRC applauds the Division for having a history of not reverting federal dollars. We urge the Division to continue this practice of using all available federal funds to benefit Tennesseans with disabilities. The SRC urges the Division to take advantage of establishment grants and other sources to draw down federal dollars and expand services. However, this is not a long-term solution to funding problems. The best solution is to get adequate state appropriations to match all available federal dollars. Admittedly, current economic circumstances make it highly unlikely that additional match dollars can be obtained from the General Assembly. However, the SRC would like to work with the Division to develop a long range plan on getting adequate match for all of the available federal dollars. It is understood that the Division's employees are limited in what they can do to advocate for more funds. However, the SRC and other disability groups can advocate

for more funds but this requires a plan. The SRC urges the Division to engage in discussions with the SRC on such strategies.

RESPONSE: The Division continues to be committed to pulling down and effectively using all of the federal funds that are available to it. Reductions in state appropriations have deeply hit all departments across the state. The Division has been faced with hard choices to minimize the impact of shrinking resources on our entire client base. The Division is analyzing options to be able to draw down all of the federal funds, meet the needs identified in our state plan, and maximize both the number of clients served and appropriate services that they receive. As always, these options will be shared and discussed with the SRC.

11. The SRC commends the Division for its commitment to specialized services to individuals who are blind / visually impaired and deaf / hard of hearing. Although Tennessee is a combined agency, it has a separate identifiable unit to serve individuals with sensory impairments. According to information provided to the SRC, the Division last year expended over 15% of its federal dollars on serving clients with varying degrees of vision loss including those in the Randolph Sheppard Program and approximately 6% on those individuals who are deaf or hard of hearing. With respect to the blind, the percentage of dollars devoted to these programs is comparable to what states with separate agencies for the blind expend. The SRC is proud of this commitment and urges the Division to continue its commitment to specialized services.

RESPONSE: The Division is committed to providing the same high quality service to all persons with disabilities. The Division appreciates the SRCs recognition of its commitment to categorical services. This commitment extends to the Tennessee General Assembly which established the Services for the Blind & Visually Impaired Section through statute and has reinforced this commitment on many occasions. The Division is proud of the level and quality of service this unit provides to individuals who are blind or severely visually impaired. Based upon the service delivery model for individuals who are blind or visually impaired, the Division has created a specialized unit to provide VR services to individuals who are deaf or hard of hearing. It also funds a network of Community Centers for the Deaf. The Division believes that individuals with vision or hearing loss have unique needs and face unique challenges and it remains committed to helping them through specialized services to become self sufficient.

12. The SRC has concerns that the number of closures are steadily going down while expenditures continue to rise. The number of successful closures dropped from 3,382 at a cost of \$76,749,560 in 2005 to 2,484 at a cost of \$84,446,553 in 2008. Realizing that overall costs have risen over this time period and that certainly impacts the cost increase; the SRC would welcome a discussion with the Division regarding other possible contributing factors. The SRC would like to see where costs have specifically increased. It is assumed that money being spent by the VR Counselors has increased during that time period but what are the other areas that have increased and why? The SRC welcomes dialogue on possible solutions to ensure that the maximum amount of funds are available to be spent on direct services and the number of successful closures does not continue to decline.

RESPONSE: The Division shares the SRC's concern over the decline in closures with successful outcomes that has occurred over the past several fiscal years. The number of

individuals exiting the VR program who achieved an employment outcome during the current performance period compared to the number of individuals who exit the VR program after achieving an employment outcome during the previous performance period is a Performance Indicator for which the VR program is measured (34 CFR §361.84(c)(1)(i) Performance Indicator 1.1.) For VR programs, like ours, operating under an Order of Selection, the ability to increase the number of successful outcomes each year (performance period) is a major challenge and one that we have not been able to accomplish. The Division takes no consolation in not being alone. Approximately 35% of VR programs nationwide also report a decrease in successful outcomes.

Since the implementation of the Order of Selection in August of 2001, the Division has served only new cases who were determined to have the most significant disabilities (Priority Category 1). Given that the cost of services to individuals with the most significant disabilities are greater due to the multiplicity and complexity of the clients' needs, the overall cost for services and the service delivery time from application to closure have also increased. Additionally, the current state of our economy exacerbates the barriers to employment that clients with most significant disabilities already face.

Increasing the number of closures with successful outcomes is a major priority for the Division, and making services available beyond Priority Category 1 can help. During Fiscal Year 2008, the Division began releasing from its waiting list cases in Priority Category 2 (668 cases released on October 1, 2007; 1,339 cases on February 1, 2008; and 2,572 cases on July 15, 2008). The Division hopes to be able to continue to make periodic releases from the waiting list resulting in more individuals receiving services and increased closures with successful outcomes. The Division welcomes dialogue with the SRC on possible solutions to ensure that the maximum amount of funds are available to be spent on direct services and the number of successful closures does not continue to decline.

13. At a recent Council meeting the SRC expressed concerns about equipment and computer programs being utilized that are not accessible to individuals with disabilities. The new computer system purchased by the State of Tennessee has serious accessibility issues. We appreciate that the Division agreed to look into the ongoing accessibility issues and request updates about the solutions that are being used to address this issue. In addition, it was reported that copy and fax machines are not accessible. The SRC has recommended that some of the stimulus money be expended to purchase equipment that is accessible to all employees.

RESPONSE: Some of the issues related to the new Edison system were not defects in the system, but were a combination of training issues and lack of understanding of screen reading software. The Division continues to work to ensure that its employees with disabilities can effectively use the Edison system. The Division is not aware of any of its employees being unable to use other equipment (i.e. fax machines and copiers). If the SRC will provide specific details, the Division will review to determine if accommodations are necessary.

14. The SRC commends the Division for its continued support of its business enterprises program for the blind. The Division continues to aggressively enforce the Randolph Sheppard priority and take innovative approaches to creating entrepreneurial opportunities for blind

persons. We congratulate the Division for its willingness to enter into partnerships with national franchises such as Dunkin Donuts which has opened a location in conjunction with a blind vendor at the Metropolitan Transit Authority new downtown transfer terminal. It has also opened up a large inmate commissary at the Shelby County Correctional Center in Memphis. The SRC urges the Division to continue its support of the program and to continue enforcing the priority.

RESPONSE: The Division appreciates the SRCs recognition of efforts to support the Business Enterprises Program and to enforce the statutory priority. The Division recognizes the role that the BEP plays in the vocational rehabilitation of individuals who are legally blind as well as the role it plays in creating a positive image of blind people and educating the public about the abilities of individuals with vision loss. The Division is very proud of the BEP and has proven its commitment by vigorously enforcing the priority as evidenced by the fact two cases are now being litigated in the courts.

15. Last year, the SRC urged the Division to insure that clients who are blind are made aware of out of state structured discovery training programs which are available in lieu of in-state programs that have different philosophical approaches. In order to insure that clients make informed choices, the Division is urged to develop a packet of materials that can be shared with each client requiring facility services so they will be made aware of options other than those in Tennessee. Likewise, the SRC urges the Division to explore the feasibility of establishing a structured discovery training program in Tennessee using establishment grants or other funding.

RESPONSE: The Division agrees that informed choice requires that individuals who are blind have information about different programs that may best meet an individual's vocational rehabilitation needs. The Division makes all clients who require facility based services aware of the availability of structured discovery programs in other states as well as facility services that are available in Tennessee. Creation of a structured discovery program in Tennessee would have to be substantiated by the demand for such services. The Division is open to exploring establishment of this program, but it must allocate its limited resources in the most cost effective way that still meets the needs of its clients. Specifically, the Division does not want to create a new facility that cannot sustain itself because there is not enough demand.

16. The SRC concurs with the Client Assistance Program that adequate notice of the state plan public hearings was not provided in many instances and the notice distribution list was insufficient. This is not to suggest that the Division intended to stifle public input into the plan. In fact, the SRC is convinced that the Division would like to see large numbers attend the hearings. Whether it was a breakdown in communication or poor planning, the SRC wishes to work with the Division to ensure that adequate notice is provided for all public meetings of this type and that the distribution list be expanded to include a greater number of people with disabilities, family members, and service providers. The SRC would also like to explore with the Division alternative means of gathering public input into the state planning process. Public hearings have traditionally had low attendance and perhaps there are more efficient ways to gather this input.

RESPONSE: The Division shares the SRC's desire to increase public and stakeholder's feedback on the draft of the State Plan. As discussed with the SRC last year, solicitation of feedback is a



required team effort between the SRC and the Division, and it must be broad, but cost efficient. This year, the Division extended its deadline for receiving state plan comments for two additional weeks after the public hearings. The Division was able to do this because posting the State Plan on the website and gathering comments through email shrinks the turnaround time. The Division is convinced that better use of technology will improve feedback. In addition to statewide media releases, the Division will expand its email distribution list to help get the word out early and often about hearings, events and other announcements. The Division is pleased that both the SRC and CAP have committed to help collect stakeholder contact information and to provide it to the Division in order to enhance its database.